

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:

) AWA Docket No. 15-0079

) MARY CARPENTER, an individual,

) Respondent.

) COMPLAINT

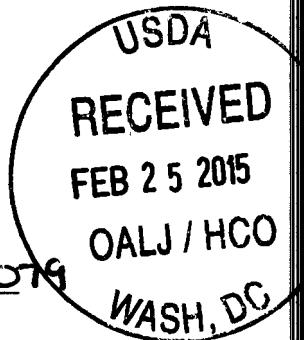
There is reason to believe that the respondent named herein has willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 *et seq.*)(Act or AWA), and the regulations (9 C.F.R. § 1.1 *et seq.*)(Regulations) promulgated thereunder. Therefore, the Administrator of the Animal and Plant Health Inspection Service (APHIS) issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. Mary Carpenter is an individual whose mailing address is Post Office Box 145, Melvern, Kansas 66510. At all times mentioned herein, respondent was a dealer as that term is defined in the Act and the Regulations, and held AWA license number 48-B-0302.

ALLEGATIONS REGARDING RESPONDENT'S BUSINESS, GRAVITY OF THE ALLEGED VIOLATIONS, GOOD FAITH AND COMPLIANCE HISTORY

2. Respondent reported to APHIS receipt of \$14,650 from the sale of 45 animals in 2011, \$17,700 from the sale of 98 animals in 2012, \$13,075 from the sale of 42 animals in 2013, and \$19,250 from the sale of 60 animals in 2014. The alleged violations include repeated instances of inadequate veterinary care, inadequate husbandry, and failure to allow APHIS inspectors access to conduct inspections of her animals, facilities, and records. On March 24, 2011, APHIS issued an official warning letter to respondent for failing to comply with the veterinary care, access, and record-keeping Regulations, and to meet the minimum standards for dogs promulgated under the Act (9 C.F.R. §§ 3.1-3.19)(Standards). On January 11, 2012, APHIS issued a second official warning



letter to respondent for failing to comply with the veterinary care, access, and record-keeping Regulations, and to meet the Standards.

ALLEGED VIOLATIONS

3. On eight occasions (March 22, August 22, and December 4, 2012, March 25, June 3 and July 9, 2013, and January 9 and October 2, 2014), respondent willfully violated the Act and the Regulations by failing to provide APHIS with access for inspection and to have a responsible adult available to accompany APHIS officials during inspection. 7 U.S.C. § 2146(a); 9 C.F.R. § 2.126(b).

4. On multiple occasions, respondent willfully violated the Regulations by failing to have an attending veterinarian provide adequate veterinary medical care to animals in her custody and by failing to establish, maintain, and follow programs of adequate veterinary care that included the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and regular observation and assessment of animals, 9 C.F.R. §§ 2.40(a), 2.40(b)(2), 2.40(b)(3), as follows:

a. May 7, 2012. A cream adult male Pomeranian dog (#230) was observed scratching and upon inspection had flaking skin, red bumps on his belly and the inner area of both rear legs, and matted hair covering approximately 30% of his back. This dog had not been seen by a veterinarian.

b. May 7, 2012. A white adult female Maltese dog (#175) was thin, with visible ribs and backbone and, although the dog had apparently been in respondent's custody since January 30, 2012, the dog had not been seen by a veterinarian.

c. May 7, 2012. A black and white adult female Siberian Husky dog

(#073097282) had open sores at the top of both ears, which sores were reddened, inflamed and moist, and the dog had not been seen by a veterinarian.

d. October 22, 2012. An apricot male English Mastiff dog (#105867340) was thin, with protruding ridges of his ribs, backbone, and hipbones, and had not been seen by a veterinarian.

e. October 22, 2012. An apricot female English Mastiff dog (#038049537) had a large gray-colored cauliflower-shaped growth on her left hind leg, which growth was approximately the size of a tennis ball, and the dog had not been seen by a veterinarian.

f. October 22, 2012. A black and white adult female Siberian Husky dog (#0A01627919) was non-weight bearing on her right hind leg, was observed to be leaning against a shelter for support, and had not been seen by a veterinarian.

g. November 1, 2012. The black and white adult female Siberian Husky dog (#0A01627919), noted on the previous inspection, continued to be non-weight bearing on her right hind leg, and had a noticeable decrease in muscle mass. Although the dog was seen by a veterinarian on October 25, 2012, and the veterinarian noted that the dog may have a non-healing fracture or osteosarcoma, and would “probably” be euthanized, no steps had been taken to alleviate the dog’s obvious pain and discomfort.

h. November 6, 2012. The black and white adult female Siberian Husky dog (#0A01627919), noted on the two previous inspections, was diagnosed on November 2, 2012, with a fracture of the femoral neck of her right hind leg, and, pending surgery, was prescribed pain medication. Although the femoral neck is located near the hip joint, the respondent elected to wrap the dog’s ankle with a bandage, an action that was not directed

by the veterinarian, and the bandage was not applied properly.

i. November 6, 2012. The apricot male English Mastiff dog (#105867340) noted on an inspection on October 22, 2012, was seen by a veterinarian on October 25, 2012, who prescribed aspirin for suspected arthritis, but the dog did not respond to that treatment, and continued to remain thin, with protruding ridges of his ribs, and prominent backbone and hipbones, and had not been reevaluated by a veterinarian.

j. November 6, 2012. A female Yorkshire terrier dog (#377) was shaking, limping, and non-weight bearing on her left hind leg, and had not been seen by a veterinarian.

k. November 6, 2012. A female Maltese dog (#062) was limping and intermittently carrying her right hind limb, was infested with fleas, and had not been seen by a veterinarian.

l. November 6, 2012. A female Mastiff dog (#038020069) was observed to be squinting her left eye, and upon inspection, the eye was noted to have a white opaque area covering at least half of its surface, and the dog had not been seen by a veterinarian.

m. November 6, 2012. A male Maltese dog (#286) had hair loss and reddened skin around his tail, his abdomen, and the inside of his legs, and upon inspection, numerous fleas and residue were observed all over his body and scabs were noted around his hind legs and in the areas between his torso and his four limbs. This dog had not been seen by a veterinarian.

n. November 6, 2012. A female Labrador retriever dog (#024281865) had an abnormally small left eye with a yellow-colored discharge and had not been seen by a veterinarian.

- o. November 6, 2012. A male Chihuahua dog (#060860258) had extreme hair loss around his lower abdomen and his legs, had fleas and residue all over his head and body, and had thickened skin around his ears, and had not been seen by a veterinarian.
- p. November 6, 2012. A pregnant female Chihuahua dog (#248) was observed to have produced a soft pile of feces containing mucous and frank blood, and the dog had not been seen by a veterinarian.
- q. November 6, 2012. Two Australian shepherd puppies had produced excreta containing white rice-sized material indicative of parasites, and these dogs had not been seen by a veterinarian.
- r. November 6, 2012. A female Australian cattle dog (#22) was observed to be limping, and there was no documentation or other evidence that the dog had been seen or treated by a veterinarian.
- s. November 6, 2012. A female Leonberger dog (#257) was observed to have an abnormal gait, and although the respondent represented that the dog had hip dysplasia, there was no documentation or other evidence that a veterinarian had seen, diagnosed, or treated the dog.
- t. December 6, 2012. A male Yorkshire terrier dog (#179) was observed to be shivering, was in thin body condition, and had a thin haircoat.
- u. December 6, 2012. A female Maltese dog (#379) was observed to have swollen, reddened gums, and a thick brown buildup on her teeth, indicative of dental disease, and was observed to have fleas and flea residue all over her body, and the dog had not been seen by a veterinarian.

v. December 6, 2012. A female Maltese dog (#062), noted on a previous inspection, was observed to have difficulty chewing, and upon closer inspection, was found to have swollen, reddened gums, and a thick brown buildup on her teeth, indicative of dental disease, and the dog had not been seen by a veterinarian.

w. December 6, 2012. A female poodle dog (#178) had fleas and residue all over her body, and the dog had not been seen by a veterinarian.

x. December 6, 2012. A female Mastiff dog (#038020069), noted on the previous inspection to be squinting her left eye, was observed squinting both eyes. The left eye had a white opaque area covering at least half of its surface, and the right eye had begun to emit a clear discharge. The dog was seen by a veterinarian on November 11, 2012, and diagnosed as having an entropion which required surgery as soon as possible, but no surgery was scheduled.

y. December 6, 2012. A male Maltese dog (#286), noted on the previous inspection, continued to have fleas, and visible hair and skin problems.

z. December 6, 2012. A female Labrador retriever dog (#024281865), noted on the previous inspection, continued to have an abnormally small left eye, with a yellow-colored discharge. On November 9, 2012, a veterinarian evaluated the dog and recommended removing the eye “as soon as possible,” but no action was taken to implement that recommendation.

aa. December 6, 2012. A female Leonberger dog (#257), noted on the previous inspection, continued to exhibit an abnormal gait. A veterinarian evaluated the dog on November 9, 2012, and advised that radiographs were needed in order to diagnose hip

dysplasia, but respondent did not schedule radiographs or any other diagnostics or treatment for this dog.

bb. December 6, 2012. An apricot male English Mastiff dog (#105867340), noted on two previous inspections, was seen by a veterinarian on October 25, 2012, who prescribed aspirin for suspected arthritis, but the dog did not respond to that treatment, and continued to be thin, with protruding ridges of his ribs and prominent backbone and hipbones. On November 9, 2012, the veterinarian recommended de-worming, but the dog's condition did not improve and the dog was not reevaluated.

cc. December 6, 2012. A female merle blue Australian shepherd dog (#096608365) was observed to be limping and carrying her right hind leg or toe-touching while ambulating, but there was no documentation or other evidence that a veterinarian had seen, diagnosed, or treated the dog.

dd. December 6, 2012. A female Siberian Husky dog (#086085541) was observed to have thickened skin on the inside of her ears to the extent that openings of her ear canals were affected, and the dog had not been seen by a veterinarian.

ee. December 6, 2012. A female blue heeler dog (#4A2D0A3B6E) was observed shaking and tilting her head, but the dog had not been seen by a veterinarian.

ff. December 6, 2012. An apricot female English Mastiff dog (#038049537), noted on the October 22, 2012, inspection to have a large growth on her left hind leg, which growth was approximately the size of a tennis ball, was evaluated by a veterinarian on October 25, 2012. The veterinarian diagnosed the dog, which was pregnant, as having a hemangiopericytoma and recommended surgical removal following whelping. The dog

whelped on November 6, 2012, but none of the puppies survived, and the respondent took no steps to have the mass removed from this dog's leg.

gg. December 6, 2012. A female Bernese Mountain dog (090024589) was observed to have an excessively long dew claw on her right rear paw, and was limping on her right rear leg.

hh. August 12, 2013. A female Mastiff dog (#038020069), noted on the November 6 and December 6, 2012, inspections, had bilateral entropion surgery on December 27, 2012, but continued to have a thick white discharge around her left eye, there was a round white opaque area on the surface of that eye, and the sutures either did not dissolve or were not removed from the eye.

ii. August 12, 2013. A male red Chihuahua dog (#0A02043656) was observed to be non-weight bearing on his right front leg, there was swelling and a yellow discharge between the toes of his right front paw, and the dog had not been seen by a veterinarian.

jj. August 12, 2013. A female merle blue Australian shepherd dog (#0A1421071) had an area of hair loss and scabbing near the base of her tail, and the exposed skin was moist and red.

kk. August 12, 2013. A female cream-colored Chihuahua dog (#236) had a yellow scab on her right side and numerous fleas and flea residue near her tail.

ll. August 12, 2013. A male black and tan Chihuahua dog (#420) had a very thin haircoat from his neck to his tail.

mm. August 12, 2013. A male black and gold Yorkshire terrier dog (#143) had no hair on his sides and rear end.

nn. August 12, 2013. A male black Chihuahua dog with no identification (Rocky) had visible fleas and hair loss and had not been seen by a veterinarian.

oo. August 12, 2013. A female blue Chihuahua dog with no identification (Grace) had visible fleas and hair loss and had not been seen by a veterinarian.

5. On or about May 7, 2012, November 6, 2012, August 12, 2013, and May 15, 2014, respondent willfully violated the Regulations by failing to establish programs of adequate veterinary care that included the use of appropriate methods to prevent, control, and treat diseases and injuries, and specifically, respondent maintained unlabeled and/or expired medication for use in dogs, and/or used medications on dogs that were prescribed for other species of animals. 9 C.F.R. § 2.40(b)(2).

6. On or about the following dates, respondent willfully violated the Regulations (9 C.F.R. § 2.50(b)) by failing to identify animals as required:

a. November 6, 2012. Four female dogs (a red cattle dog, a blue cattle dog, a Leonberger, and a Chihuahua) had no identification.

b. August 12, 2013. Eight dogs were not identified as required.

7. On or about August 12, 2013, respondent willfully violated the Regulations (9 C.F.R. § 2.75(b)(1)) by failing to make, keep and maintain complete and accurate records as required, and specifically respondent did not make, keep, and maintain records of the disposition of an adult female Leonberger dog.

8. On or about November 6, 2012, respondent willfully violated the Regulations by failing to take appropriate measures to alleviate the impact of climatic conditions on the health or well-being of a female Mastiff dog and her newborn (one-day-old) puppy, both of which were housed in an outdoor enclosure without bedding, a wind or rain break, or any heat source. 9 C.F.R.

§ 2.131(e).

9. On or about the following dates, respondent willfully violated the Regulations (9 C.F.R. § 2.100(a)), by failing to comply with the Standards for dogs, as set forth below.

- a. May 7, 2012. Respondent housed eight puppies under eight weeks of age in outdoor enclosures without the approval of respondent's veterinarian. 9 C.F.R. § 3.4(a)(1)(iii).
- b. May 7, 2012. Three outside enclosures for six dogs contained a mixture of straw and mud, and were not maintained in a manner that enabled the animals to stay dry and clean. 9 C.F.R. § 3.6(a)(2)(v).
- c. October 22, 2012. Outdoor enclosures housing eleven dogs contained surfaces with jagged edges and sharp points that could injure the animals contained therein. 9 C.F.R. § 3.1(c)(1)(ii).
- d. October 22, 2012. Ten dogs were housed in an outdoor enclosure with a shelters that had been chewed, had jagged, rough edges, and could not be cleaned and sanitized. 9 C.F.R. § 3.1(c)(2).
- e. October 22, 2012. Six dogs were housed in an outside enclosure containing shelters that lacked a wind break or a rain break to protect the animals from the effects of snow, wind, and rain. 9 C.F.R. § 3.4(b)(3).
- f. October 22, 2012. Two outdoor enclosures housing a total of six dogs contained shelters that did not provide sufficient space for all of the dogs. 9 C.F.R. § 3.4(b).
- g. October 22, 2012. Two dogs were housed in an outdoor enclosure that had a two-to-three inch gap between the fencing and the cattle panel on the ground. 9 C.F.R. §

3.6(a)(2)(ii).

h. October 22, 2012. Six dogs were housed in three outdoor enclosures with large holes adjacent to the fencing. 9 C.F.R. § 3.6(a)(2)(ii).

i. October 22, 2012. Feeders for ten dogs were not cleaned and sanitized as required. 9 C.F.R. § 3.9(b).

j. October 22, 2012. There was accumulated excreta in an enclosure housing two dogs. 9 C.F.R. § 3.11(a).

k. November 6, 2012. Outdoor enclosures housing approximately nine dogs contained surfaces that had jagged edges and sharp points that could injure the animals contained therein. 9 C.F.R. § 3.1(c)(1)(ii).

l. November 6, 2012. Three outdoor enclosures housing a total of nine dogs contained shelters that did not provide sufficient space for all of the dogs. 9 C.F.R. § 3.4(b).

m. November 6, 2012. Two dogs were housed in an outside enclosure containing a shelter that lacked a wind break or a rain break to protect the animals from the effects of snow, wind, and rain. 9 C.F.R. § 3.4(b)(3).

n. November 6, 2012. Seven dogs were housed in outside enclosures with shelter structures that lacked any bedding, when temperatures were below 50 degrees Fahrenheit. 9 C.F.R. § 3.4(b)(3).

o. November 6, 2012. Two dogs were housed in an enclosure with metal wire extending from the base of the wall on the ground, at a height that was accessible to the dogs and could cause them injury. 9 C.F.R. § 3.6(a)(2)(ii).

p. November 6, 2012. There was excessive excreta in the whelping building and

in two outdoor enclosures housing a total of seven dogs. 9 C.F.R. § 3.11(a).

q. December 6, 2012. The vinyl tarps that stretch across the top and along the sides of four outdoor enclosures housing dogs are torn and shredded, and accessible to the animals inside the enclosures. 9 C.F.R. § 3.1(a).

r. December 6, 2012. An outdoor enclosure housing five dogs had jagged edges with sharp points that could injure the animals contained therein. 9 C.F.R. § 3.1(c)(1)(ii).

s. December 6, 2012. An outdoor enclosure housing three dogs had jagged edges and sharp points that could injure the animals contained therein. 9 C.F.R. § 3.1(c)(1)(ii).

t. December 6, 2012. An outdoor enclosure housing two dogs had exposed wire with sharp points that could injure the animals contained therein. 9 C.F.R. § 3.1(c)(1)(ii).

u. December 6, 2012. An outdoor enclosure housing eight dogs contained six plastic shelter structures that had been chewed, leaving jagged, rough surfaces and sharp edges that could injure the animals, and the surfaces of the shelters could not be cleaned. 9 C.F.R. § 3.1(c)(1)(ii).

v. December 6, 2012. An outdoor enclosure housing five dogs had exposed wire with sharp points that could injure the animals contained therein. 9 C.F.R. § 3.1(c)(1)(ii).

w. December 6, 2012. Eight outside shelters for fifteen dogs did not have a wind break or a rain break to protect the animals from the effects of snow, wind, and rain. 9 C.F.R. § 3.4(b)(3).

x. December 6, 2012. There was accumulated excreta in the large dog yard housing two Leonberger dogs and a Labrador retriever dog, and respondent represented that

the enclosure had not been cleaned in two months. 9 C.F.R. § 3.11(a).

y. August 12, 2013. An outdoor enclosure housing two dogs had jagged edges and sharp points that could injure the animals contained therein. 9 C.F.R. § 3.1(c)(1)(ii).

z. August 12, 2013. An outside shelter for eight dogs did not provide sufficient space for all six dogs. 9 C.F.R. § 3.4(b).

aa. May 15, 2014. There are several large holes along the fencing in the outdoor enclosures for fourteen dogs, which holes diminish the structural integrity of the fence. 9 C.F.R. § 3.1(a).

bb. October 9, 2014. The enclosure for three dogs had not been cleaned and sanitized as required, and there was an accumulation of dried dirt and excreta along the wall of the enclosure, and on the igloo-type shelters inside the enclosure. 9 C.F.R. § 3.11(a), (b).

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WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the Regulations, this complaint shall be served upon the respondent, who shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint. APHIS requests that unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing, upon motion pursuant to section 1.141(b) of the Rules of Practice governing proceedings under the Act, and that such order or orders be issued as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.
this 24th day of Feb. 2015

[REDACTED]
Administrator
Animal and Plant Health Inspection Service

COLLEEN A. CARROLL
Attorney for Complainant
Office of the General Counsel
United States Department of Agriculture
1400 Independence Avenue, S.W.
Room 2343 South Building
Washington, D.C. 20250-1400
Telephone (202) 720-6430; 202-690-4299 (Fax)
e-mail: colleen.carroll@ogc.usda.gov